

TITLE 16 – HAYDEN LAND USE CODE

ARTICLE 13 - ANNEXATION

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16.13.010. Purpose

The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the *Colorado Municipal Annexation Act of 1965 (Act)*, as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the Act, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that Act, or any requirements set forth in other portions of the Hayden Town Code. In the event of a conflict between the Act, the provisions of this Article or any requirements set forth in other portions of the Hayden Town Code, it is the expressed intent of the Town Board that the more stringent provision shall control.

16.13.020. Statement of Policy and Review Criteria

- A. It shall be the general policy of the Town with respect to annexations, the annexation application, and the consideration of annexation petitions that:
1. Annexation is a discretionary act. With the exception of a petition initiated by the Town for the annexation of an enclave, the Town Board shall exercise its sole discretion in the annexation of territory to the Town.
 2. The land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Town of Hayden Comprehensive Plan and to the land uses depicted on the Proposed Land Use Map, as amended.
 3. Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town in order that the public needs may be served by such facilities. These facilities include, but not by way of limitation, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites, and storm drainage facilities. The annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.
 4. The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation applications and petition, from initial discussion with Town Staff before submittal of the petition, through the approval and recording of the final annexation documents.
 5. Annexed areas will not divide tracts of land to prevent further annexation of adjoining parcels. (For example, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property.)
 6. All subsurface (non-tributary) water rights shall be deeded to the Town at the time of annexation.

7. The property owner shall have complied with the Annexation Application requirements of this Article prior to submitting an annexation petition.

16.13.030. Annexation Application
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- A. Annexation Application. An annexation application shall be submitted to the Town for any proposed annexation, **prior** to submission of a petition for annexation. Such application is necessary for the Town to evaluate the impacts on the Town of annexing the property identified in the application and negotiate an annexation agreement. The annexation application shall include the following information:
 1. The name, street address, e-mail address, and phone number of the applicant on a completed application form supplied by the Town;
 2. A written legal description and map of the property and its surroundings;
 3. Requested zoning classification for the property;
 4. Known hazards and environmental issues, if any, that may be present due to the topography, geology, or hydrology of the property;
 5. The anticipated sources of water, sanitary sewer and other utilities to be used to serve the property, if known;
 6. A general development concept plan describing the desired use of the property after annexation, if known;
 7. An outline of any known terms proposed for the annexation agreement including the provisions of this Article;
 8. Any other subjects pertinent to the property requiring inclusion in the annexation agreement between the Town and the applicant; and
 9. Application Fee as provided in this Code.
- B. Deposit fee for professional and administrative costs. At the time of filing an annexation application, the applicant shall pay a deposit fee, per Ordinance 546, in the amount of fifteen thousand dollars (\$15,000) and sign a statement agreeing to replenish the deposit by the amount withdrawn each month, and agreeing to pay all additional reasonable costs incurred by the Town, which shall be itemized by the Town Clerk. Costs chargeable hereunder include, but are not limited to, publication costs, postage costs, recording fees, attorney's fees, engineering fees, planning fees, administrative costs of the Town Manager and Town Clerk and other professional fees. Any amount not expended will be refunded after review of the annexation is completed and all expenses accounted for.

16.13.040. Procedure for Annexation Petitions and Public Hearings

- A. Annexation applications shall be processed and considered as follows:
 - 1. Step 1: Annexation pre-application conference. The application process begins with a pre-application conference with Town Staff to determine the feasibility of the annexation request. Following this informal meeting, the applicant may submit a Letter of Intent requesting annexation, the Annexation Application as described in this Article, the completed Annexation Application form, maps and supporting documents.
 - 2. Step 2: Town evaluation of annexation application. Town Staff shall analyze the feasibility of annexing the proposed property, including but not limited to, the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police and fire protection; compliance with the Comprehensive Plan; sources of revenue from the property; the Town’s costs to serve the proposed development; and any other related matters.
 - 3. Step 3: Annexation agreement. The Town Staff and the property owner(s) shall negotiate an annexation agreement addressing the items of concern in the Staff evaluation and other applicable requirements of this Code. The draft agreement acceptable to the property owner shall accompany any annexation petition filed with the Town.

- B. Annexation petitions shall be processed and considered as follows:
 - 1. Step 1: Annexation petition certification and completion. The petition for annexation or petition for election, annexation agreement, proposed Annexation Impact Report, and all other documents submitted shall be reviewed by Staff for completeness and compliance with the provisions of the Act and the Hayden Town Code. The applicant shall be notified within a reasonable time of any deficiencies or inadequacies in the materials submitted. An incomplete submission shall not be processed, nor referred to the Town Board for a determination of substantial compliance.
 - 2. Step 2: Annexation petition referral to board. Upon Staff’s determination that the petition and supporting documentation are complete and in compliance with provisions of the Act, and the Hayden Town Code, the Town Clerk shall refer the petition to the Town Board.
 - 3. Step 3: Board determination of substantial compliance. The Town Board shall take the appropriate steps to determine if the petition is in substantial compliance with the Act.

- a. If the petition is found to be in substantial compliance with the Act, the Town Board may, by the adoption of a Resolution of Substantial Compliance, set the annexation (and zoning if requested) for public hearing on a specified date, time, and place, not less than (30) thirty days nor more than (60) sixty days from the effective date of the Resolution, subject to compliance with C.R.S. § 31-12-108.
 - b. If the petition is found to not be in compliance with the Act, no further action shall be taken, except that the determination shall be made by resolution adopted by the Town Board.
- 4. Step 4: Planning commission review and recommendations. The Planning Commission shall consider the petition for annexation at a regular or special meeting to be held prior to the date of the public hearing before the Town Board. If zoning of the property is requested at the time of annexation, the Planning Commission shall hold a public hearing on the zoning of the property at the same meeting. Notice of the public hearing on zoning shall be given in accordance with the requirements for an amendment to the zoning map.

The Planning Commission, upon the conclusion of the meeting at which they consider the petition, shall recommend approval of the petition for annexation with or without conditions, or recommend denial. If zoning of the property is requested at the time of annexation, the Planning Commission shall recommend to the Town Board approval with or without conditions, or recommend denial of the requested zoning.

- 5. Step 5: Town Board Public Hearing and action on the annexation.
 - a. The Town Board shall hold the public hearing on the petition for annexation, and zoning, if requested in conjunction with the annexation. The petitioners shall present evidence in support of the petition and zoning if applicable. Town Staff shall testify as to the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Town Board. The Town Board may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Town Board shall adopt a resolution containing the findings of fact and conclusions, including:
 - i. Whether or not the requirements of C.R.S. § 31-12-104 and 105 and this Article have been met;
 - ii. Whether or not the Annexation Agreement is acceptable to the Town;

school district having territory within the area to be annexed in accordance with Colorado law.

- B.** A copy of the published notice, together with the “Letter of Intent” provided with the application, the annexation map and the “concept plan” for the development of the property shall be sent by the Town by certified mail, return receipt requested, to the owners of real property within one hundred fifty (150) feet of the boundaries of the proposed annexation, irrigation ditch companies whose rights-of-way traverse the property to be annexed and to the mineral estate owners and their lessees of the property to be annexed. Notice provided by the Town to the owners of the minerals estate and their lessees shall not relieve the petitioner(s) from the responsibility of providing notice as required by C.R.S. § 24-65.5-101, *et seq.* In the case of a “flagpole” annexation, the Town shall also provide notice to abutting property owners as specified in C.R.S. § 31-12-105 as amended.

C. Petitioner’s Responsibilities - Mailing labels, Notice to mineral estate owners and lessees.

1. The petitioner shall provide the Town with a set of mailing labels (matching Avery 8160) containing the owners of real property within one hundred fifty (150) feet of the property to be annexed, the mineral interest owners and lessees for the property to be annexed, the irrigation ditch companies whose rights-of-way traverse the property to be annexed and the special districts encompassing the property to be annexed. The petitioner shall also certify that the required address list of owners of real property is complete.
2. The petitioner shall provide a set of mailing labels (matching Avery 8160) for all special districts encompassing the property to be annexed, the Board of Routt County Commissioners and Routt County Attorney, special districts and school districts with territory within the property to be annexed, and referral agencies of the Town, as directed by the Town. The petitioner shall also provide a sufficient number of labels to mail notice to the owners of real property and mineral interest owners and lessees identified in the mailing list.
3. The petitioner shall be responsible for providing notice of each public hearing (Planning Commission and/or Town Board) to the owners of the mineral estate on the property to be annexed, and to their lessees, as required by C.R.S. § 24-65.5-101, *et seq.* The petitioner shall certify to the Town Clerk not less than fifteen (15) days prior to the date of the public hearing(s), the petitioner’s conformance with this notice requirement.

16.13.070. Annexation Petition and Application Submittal Requirements

- A. The following are the submission requirements for an annexation petition. One (1) original and three (3) copies of the following forms, letters and documents. Any forms or letters requiring signatures shall have one original signed and dated in blue ink. The remaining copies may be photocopies of the original.

Following Staff review and notice of acceptance for referral to the Board, the applicant shall provide fifteen (15) copies of the annexation documents and the appropriate maps & map reductions as outlined below.

- B. The Annexation application shall include:

1. Letter of intent. The applicant shall provide a letter of intent addressed to the Board to serve as a cover letter to the formal petition, introducing the applicant(s) to the Board, requesting annexation of the petitioner's property and describing the development plans for the property, if it is annexed.
2. Annexation application form. The Town's Annexation Application form shall be completed, signed and dated.
3. Agreement for payment of development review expenses incurred by the town. The application shall be accompanied a signed standard form Agreement for the Payment of Development Review Expenses incurred by the Town.
4. Petition for annexation. The applicant shall submit a petition for annexation complying with the requirements of C.R.S. § 31-12-107.
5. Annexation map. Four (4) paper copies of the annexation map are to be provided with the initial submittal. The annexation map shall be signed and sealed by the registered land surveyor or engineer preparing the map, or under whose supervision the annexation map was prepared. The annexation map(s) shall comply with the technical drawing requirements contained in 16.13.090 of this Code.
6. Concept plan map. Five (5) paper copies sized twenty four (24) by thirty six (36) inches and fifteen (15) reductions sized eleven (11) by seventeen (17) inches of the concept plan map are to be provided with the initial submittal. The concept plan map(s) shall comply with the technical drawing requirements contained in 16.13.100 of this Code.
7. Title commitment. The applicant shall submit proof of ownership in the form of a current title commitment, issued by a title insurance company licensed by the State of Colorado, whose effective date shall be less than (30) thirty days prior to the date of submittal of the annexation petition. Ownership **must** match the

ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned, because of road rights-of-way or other reasons, then the title policy must certify that the property owned is wholly contained within the described area on the annexation map. If the applicant is not the owner, there shall be provided, in addition to the title commitment naming the owner as the insured, a notarized affidavit by the owner stating the applicant is authorized by the owner to make application for annexation. The applicant is to provide a word processing file of the legal description contained in the title commitment.

8. Property tax statement. A copy of the prior year's property tax statement and paid receipt for all property to be annexed.
9. Mailing labels for Routt County, special districts, school districts, irrigation companies, mineral interest owners and adjacent property owners. The Applicant is to provide mailing address labels as required by this Article.
10. Annexation impact report. An annexation impact report conforming to C.R.S § 31-12-108.5 is required for areas of ten (10) or more acres and will be completed by Town Staff.
11. Water rights. The applicant shall provide a "Water Rights Report" for the property prepared by a qualified water engineer or water attorney detailing the water rights appurtenant to, and severed from, the property to be annexed and their historical use. The report must include both surface (tributary) and subsurface (non-tributary and tributary) groundwater. The applicant shall provide to the Town a signed warranty deed(s) for sufficient water rights as defined by the Town Engineer to provide for the domestic needs of property to be developed as a result of the annexation. In addition, the applicant shall provide to the Town a signed standard form warranty deed for the transfer of all subsurface (non-tributary) water rights to the Town.
12. Zoning of property to be annexed. If zoning is requested simultaneously with annexation, the petitioner must submit a completed Zoning Application form including a Zoning Map for the property. If zoning is approved, Applicant must work with Staff to amend the official zoning map and pay all application, mapping and recording fees. If zoning is not requested simultaneously with annexation, the property is required by statute to be brought under the Hayden's Zoning Code and Zoning Map within ninety (90) days of the completion of the annexation process.
13. Annexation assessment Report. The application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing services and facilities. It shall detail the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall be one or more

paragraphs in length, and adequate to fully explain the needs, concepts and proposed solutions for each of the following:

- a.** An assessment of the community needs for the proposed annexation and land use;
- b.** The economic impact to the municipality of the proposed annexation; (This is to include an analysis of short-term and long-term municipal revenues to be generated by the development, short-term and long-term municipal expenses likely to be incurred as a result of the annexation and development, and proposals to mitigate any negative impacts.)
- c.** The school impact including an estimated of the number of students to be generated by development of the property, capital construction required to educate the students, and proposals to mitigate any negative school impacts;
- d.** The impact on the water and sanitary sewer systems anticipated to serve the property, including a description of any regional facilities that must be constructed or upgraded to serve the development on the property.
- e.** The impact on the existing transportation system and proposals to mitigate any negative transportation impacts upon the community (arterial and collector street improvements, intersection improvements, intersection signalization, alternative modes of transportation, etc.);
- f.** The impact of the proposed development on the existing storm drainage system and proposals to mitigate any negative drainage impacts upon the community (historic rainfall drainage patterns, detention and retention areas, storm sewer requirements, discharged irrigation ditches, floodways and floodplains, etc.);
- g.** The impact of the proposed development on law enforcement in Hayden and proposals to mitigate any impact upon the existing police services (special security needs, additional officers required, additional equipment requirements, etc.);
- h.** The impact of the proposed development on the West Routt Fire District and proposals to mitigate any impact upon the existing fire protection services (special fire hazards, fire prevention, fire detection, emergency

access, additional equipment requirements, additional manpower requirements, additional fire stations, etc.);

- i. The impact of the proposed development on the Town park facilities and recreation programs and proposals to mitigate any impact upon the existing facilities and programs;
 - j. The impact of the proposed development on the environment of the Town and proposals to mitigate any negative impact (identify environmentally sensitive areas, endangered species, significant habitats, etc.);
 - k. The short-term and long-term economic development potential for the property (numbers of jobs to be created, sales and use tax generation, property tax generation, utility revenue generation, incentives to be offered, etc.);
 - l. The compatibility of the proposed development with the Hayden street master plan and proposals for mitigating any negative impact;
 - m. The compatibility of the proposed development with the Hayden Comprehensive Plan and any plan amendments that may be necessary for the proposed development;
 - n. The compatibility of the proposed development with the Hayden Land Use Code and any deviations in setbacks, space requirements, and permitted uses that may be required for the proposed development; and
 - o. A review of existing and adjacent land uses, areas of compatibility or conflict, and possible mitigation measures that may be required for the proposed development.
14. Letters of support. The application is to be accompanied by letters of support or comments from all special districts servicing, or proposed to service, the area to be annexed.

16.13.080. Annexation Agreement
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- A. The Annexation Agreement is to be negotiated *after* submittal of the Annexation Application and *before* submittal of the Annexation Petition and shall address the items listed below. If a property to be annexed is held by more than one owner, all of the

owners must sign the Annexation Agreement. If multiple properties are combined for annexation purposes, but will be developed separately, separate Annexation Agreements are to be signed by each owner.

1. The easements to be dedicated to the Town or other public entities necessary for present and future utility services;
2. The zoning designation to be applied to the area to be annexed;
3. Installation of any public improvements deemed necessary by the Town Board of Trustees, as a condition precedent to development;
4. Assurance of compliance with all applicable ordinances of the Town and all of the Town's and State's requirements for annexation as set forth in this ordinance or state statute; and
5. An agreement to pay the equivalent of the property taxes that would be levied by the Town and due and payable to the Town for the property as of January 1, of the year following the annexation if the annexation is not completed in time for the tax rolls of the year following the annexation.

16.13.090. Annexation Map Technical Standards
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- A. The annexation map shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado. The annexation map shall conform to the following drafting standards and contain the following information. It shall be a neat, clear, permanent, legible and reproducible document. Inaccurate, incomplete or poorly drawn maps shall be rejected.
1. The annexation map shall be an original drawing on 24" x 36" flat, spliceless, tapeless and creaseless sheet(s) of double matte mylar film with a uniform thickness of not less than .003 of an inch, using only permanent black ink that will adhere to drafting films, or an acceptable "fix-line" photographic reproduction (emulsion down), or a computer generated reproduction of the original drawing. A margin line shall be drawn completely around each sheet leaving a margin at least one-half (½) inch on three sides and a margin at least two (2) inches on the left (short) side, entirely blank. Unless otherwise specified, text and numbers are to be large enough to be clearly legible at the scale drawn.
 2. The annexation map shall be drafted at a scale that best conveys the detailed survey, and confines the drafting error to less than one (1) percent. Acceptable scales are 1"=50' or 1"=100' and for annexations exceeding one hundred (100) acres, 1"=200'. In special instances another scale may be approved by the Town. When an annexation requires multiple sheets, an index shall be provided that delineates the boundaries and identifies each sheet number. The scale of a

composite map may be different from the individual sheets, as approved by the Town. A “title sheet” containing the certifications and signature blocks shall be provided in the event that the annexation map sheet is too crowded.

3. The title shall be centered at the top of the sheet, along the long dimension of each sheet shall include the name of the proposed annexation. A general legal description stating the section, township, range, 6th P.M., Town of Hayden, Routt County, Colorado, shall be included under the name. On the title sheet (Sheet #1), under the general legal description, include the total acreage. Annexation names may not duplicate existing annexation names.

Example:

NEW ANNEXATION
TO THE TOWN OF HAYDEN, COLORADO
A Part of the xx of Section xx, Township _ North,
Range __ West, __ th P.M., Town of Hayden, Routt County, Colorado
xx.xx Acres

4. There shall be a title block in the lower right-hand corner, or along the right-hand margin that contains the name, address and telephone number of the land owner, the developer, and the engineer or surveyor preparing the drawing, an appropriate title for the drawing, the preparation date, sheet number, the preparer’s project identification numbers, revision dates, draftsman’s initials, and the electronic drawing file name (matching the AutoCAD drawing file provided to the Town).
5. Adjacent to the title block, in the lower right-hand corner, there shall be a legend block which shall include a description of lines, points and symbols, a double-headed north arrow designated as true north and a written and graphic scale.
6. Adjacent to the right margin, or in a column to the right of the center of the title page if the page is crowded, there shall be the Town’s standard statement of ownership containing a written metes and bounds legal description of the land to be annexed (including the full width of abutting roadways not already within the Town) followed by the owner’s signature block(s) and notary block(s), one for each owner or mortgagee.
7. Immediately following the ownership certificate, there shall be the Town’s standard Surveyor’s certificate, signed, dated and sealed by a licensed surveyor or engineer.
8. Immediately following the Surveyor’s certificate, there shall be the Town’s standard certificate blocks for the Planning Commission and Board.
9. Immediately following the Board’s approval certificate, there shall be the Town’s standard recording certificate block for the Routt County Clerk and Recorder.

10. A vicinity map that depicts the area to be annexed and the area which surrounds the proposed annexation within a two-(2) mile radius superimposed on a current *USGS Topographical Map*, maintaining the same scale shall be placed on the left side of annexation map, outside the boundary of the area being annexed, or on the left side of the title sheet.
11. The annexation map drawing shall contain the following:
 - a. Show the outline of area to be annexed with boldest line.
 - b. For all references, show book, page, map number, etc., and place where publicly recorded.
 - c. Show all recorded and apparent rights-of-way lines of roads both within and without the periphery of land to be annexed; these roads are those which are adjacent, adjoining, contiguous, and/or coincident with boundary. Provide all road names, right-of-way widths at each leg of an intersection, at the point of curve and point of tangent, at dead ends and at angle points; and right-of-way lines with accurate bearings and dimensions including chord lengths and bearings, central angles and radii of all curves. Whenever the centerline of a road has been established or recorded, the date and recording information shall be shown on the Annexation Map.
 - d. Show on the annexation map, next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town and the contiguous boundary of any other municipality abutting the area proposed to be annexed. A hatched boundary line shall be used to depict the boundary contiguous to the Town (example: /////////).
 - e. Show section, quarter section, and other monument corners. Display ties to section corners and to the State grid, if available, which show dimensions of all primary boundary survey control points with complete monument and location descriptions, all parcel lines showing dimensions with lengths, bearings, and curve data, including chord lengths and bearings, basis of bearings and relation to true meridian and similar data. Only circular curves shall be used. No spirals, parabolas, etc. shall be used. All dimensions are to be shown to the nearest 0.01' or in the case of degrees, to the nearest second. An accuracy of 1:50,000 (second order) minimum for linear and angular (bearing) closure shall be required for the boundary. All internal lots, tracts, or parcels shall have a closure accuracy of 0.01'.

- f.** Provided a description of all monuments, both found and set, which mark the boundaries of the property and of all control monuments used in conducting the survey.
- g.** Show the location of each ownership tract in unplatted land, and if part or all of the area is platted, the boundaries and plat numbers of plots or of lots and blocks.
- h.** Show the names and locations of all abutting subdivisions. The locations of all abutting unplatted parcels and public lands shall be depicted and designated as such.
- i.** The ownership identity of all mineral rights shall be designated on the map.
- j.** Show the purpose, widths, location (with fine dashed lines) and ownership of all easements and all abutting easements, including but not limited to utility, oil and gas gathering and transmission lines and irrigation ditches (fee or prescriptive). If any easement already of record cannot be definitely located, a statement of its existence, the nature thereof and its recorded reference must appear on the title sheet. The widths of all easements and sufficient data to definitively locate the same with respect to the parcel to be annexed must be shown. All easements must be clearly labeled and identified. If an easement shown on the annexation map is of record, its recorded reference must be given.
- k.** All lines, names and descriptions on the annexation map which do not constitute a part of the annexation shall be depicted in dashed or screened lines. Any area enclosed by the annexation, but not a part thereof, shall be labeled "Not a Part of This Annexation."
- l.** Accurately locate 100-year floodplains, all existing and proposed watercourses, retention and detention areas, wetlands, aquifer recharge areas, streams, lakes, or inlets on the affected property.
- m.** Show clearly the length and bearing of all lines described in the written description.
- n.** Show section numbers, quarter section quadrants, township and range lines, and label each.

